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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

CHRISTOPHER KOMNENUS,

Defendant and Appellant.

F058475

(Super. Ct. Nos. MF008608A and
MF008813A)

**ORDER MODIFYING OPINION
AND DENYING REHEARING
[NO CHANGE IN JUDGMENT]**

It is ordered that the opinion filed herein on May 21, 2010, be modified as follows:

On page 5, insert the following paragraph preceding the "DISPOSITION":

Pursuant to a standing order of this court issued on February 11, 2010, the issue of the applicability of the January 25, 2010, amendment to Penal Code section 4019 (Stats. 2009-2010, 3d Ex. Sess, ch. 28, § 50) is deemed raised without further briefing by the parties. The amendment increased the amount of presentence conduct credit available to defendants who are not required to

register as sex offenders and whose current and prior offenses do not include serious or violent felonies. In *People v. Rodriguez* (2010) 183 Cal.App.4th 1, we held that the 2010 amendment applies prospectively only and does not violate the constitutional guarantee of equal protection of the laws. Since appellant was sentenced before the effective date of the amendment, he is not entitled to any additional custody credit.

Except for the modification set forth, the opinion previously filed remains unchanged.

This modification does not effect a change in judgment.

The petition for rehearing filed by appellant is denied.

Ardaiz, P.J.

WE CONCUR:

Levy, J.

Gomes, J.